

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 482

INTRODUCER: Senator Bennett

SUBJECT: Highway Safety Act

DATE: March 24, 2010

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Eichin	Meyer	TR	<b>Fav/2 amendments</b>
2. Harper	Wilson	HR	<b>Pre-meeting</b>
3. _____	_____	WPSC	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/>            | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input checked="" type="checkbox"/> | Technical amendments were recommended   |
|                              | <input checked="" type="checkbox"/> | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This bill, known as the “Highway Safety Act,” declares the Legislature’s finding that road rage and aggressive driving are a growing threat to the public’s health, safety, and welfare, and the Legislature’s intent to reduce road rage and aggressive careless driving, minimize crashes, and promote the orderly free flow of traffic in Florida.

The bill:

- Prohibits a driver from continuing to operate a vehicle in the left lane of a multi-lane highway when the driver knows, or should reasonably know, he or she is being overtaken (and establishes exceptions to this prohibition);
- Increases from two to three, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving;
- Includes failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving;
- Establishes penalties for aggressive careless driving;
- Provides for the distribution of money received from increased fines associated with penalties toward financial support of trauma centers to ensure the availability and

accessibility of trauma services throughout Florida and emergency medical services to improve and expand prehospital emergency medical services; and

- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) to provide information about this act in driver's license educational materials.

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.083, 316.1923 and 318.19.

Section 316.650, F.S., is reenacted for the purpose of incorporating amendments made by this act.

The bill creates three undesignated sections of law.

## II. Present Situation:

### Road Rage and Aggressive Driving

According to the National Highway Traffic Safety Administration (NHTSA), "aggressive driving" comprises following too closely, driving at excessive speeds, weaving through traffic, running stop lights and signs, and other forms of negligent or inconsiderate driving.<sup>1</sup>

Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

...road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior ...those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving...<sup>2</sup>

"Road Rage" is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

...an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.<sup>3</sup>

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

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<sup>1</sup> NHTSA, "Aggressive Driving Enforcement: Evaluations of Two Demonstration Programs" (March 2004) DOT HS 809 707 Available at: <<http://www.nhtsa.dot.gov/people/injury/research/AggDrivingEnf/images/AggresDrvngEnforce-5.0.pdf>> (Last visited on March 24, 2010).

<sup>2</sup> Whitlock, F.A. *Death on the Road: A Study in Social Violence*. London: Tavistock Publications, 1971

<sup>3</sup> AAA Foundation for Traffic Safety "Controlling Road Rage: A Literature Review and Pilot Study." (June 1999).

Available at: <<http://www.aaafoundation.org/resources/index.cfm?button=roadrage>> (Last visited on March 24, 2010).

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and they are also connected with the issue of congestion.<sup>4</sup> Studies show most incidents happen between the hours of four and six o'clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. Some researchers have theorized the root cause of these aggressive behaviors is passive-aggressive driving, i.e., the failure to move to the right from a left lane of a multi-lane highway when being overtaken by faster traffic. The theory contends that because slower moving traffic often refuses to yield to vehicles wishing to pass, those faster moving vehicles resort to aggressive driving such as "bobbing and weaving" from lane to lane.

On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available) and indirectly (by congestion). For this reason it is easier for the driver to ascribe frustration at being impeded by an ambiguous source, especially if there is no logical reason for the obstruction (to the impeded driver).<sup>5</sup> This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

Current Florida law in relation to "driving on right side of roadway," does require vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction, when preparing for a left turn at an intersection or into a private road or driveway.<sup>6</sup> Violations of this law are non criminal offenses; however, enforcement of these provisions has been minimal.

Another important distinction is that aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). The extent of the few road rage laws in existing statutes are limited to definition. Most, if not all acts under the umbrella of what is considered to be road rage, are labeled criminal offenses with applicable punishments. Road rage is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *Criminal Damage, Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation), *Wounding with Intent, Common Assault, Assault with a Deadly Weapon, Murder, Manslaughter, and Vehicular Homicide*.

### **Florida Aggressive Driving Laws**

Section 316.1923, F.S., describes "aggressive careless driving" as committing two or more of the following acts simultaneously or in succession:

<sup>4</sup> Connell, D., and M. Joint. "Driver Aggression" Road Safety Unit Group Public Policy (November 1996).

Available at: < <http://www.aaafoundation.org/resources/index.cfm?button=agdrtext#Driver%20Aggression> > (Last visited on March 24, 2010).

<sup>5</sup> Ibid.

<sup>6</sup> Section 316.081(1), (2), and (3), F.S.

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b, F.S.;
- Unsafely or improperly changing lanes as defined in s. 316.085, F.S.;
- Following another vehicle too closely as defined in s. 316.0895(1), F.S.;
- Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.;
- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.; or
- Violating traffic control and signal devices as defined in ss. 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive driving.<sup>7</sup> The information is recorded and used by the DHSMV.

Section 316.003, F.S., provides a list of definitions for terms used in the chapter.

Section 316.083, F.S., provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.

Section 318.19, F.S., lists infractions requiring a mandatory court hearing.

Section 316.650, F.S., requires the DHSMV to include a box on all traffic citation tickets and accident report forms in which the issuing law enforcement officer is to check off if it is believed the traffic infraction or crash was a result of aggressive careless driving.

### **Trauma Centers, Emergency Medical Services/ Funding From Traffic Violations**

Funds credited to the Department of Health (DOH) Administrative Trust Fund, as codified in s. 20.435, F.S., are to be used for the purpose of supporting the regulatory activities of the DOH. Trauma centers are regulated by the DOH under Part II of ch. 395, F.S.

Recognizing the Legislature's intent to provide financial support to current trauma centers and to provide incentives for the establishment of additional trauma centers, s. 395.4036, F.S., provides that the DOH is to utilize funds collected under s. 318.18(15), F.S., and deposited into the DOH Administrative Trust Fund to ensure availability and accessibility of trauma services throughout Florida.

Chapter 401, F.S., provides that it is the legislative intent that emergency medical services are essential to the health and well-being of all citizens and that private and public expenditures for adequate emergency medical services represent a constructive and essential investment in the future of the state and our democratic society. Section 401.113, F.S., specifies that existing sources of funding from traffic violations deposited into the Emergency Medical Services Trust Fund, as provided in ss. 316.061 (crashes involving damage to vehicle or property), 316.192 (reckless driving), 318.21, and 938.07 (driving under the influence), F.S., must be used solely to improve and expand prehospital emergency medical services in Florida.

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<sup>7</sup> Section 316.650 F.S.

### III. Effect of Proposed Changes:

**Section 1.** Creates the “Highway Safety Act.”

**Section 2.** Provides the legislative intent of the Highway Safety Act to reduce road rage and aggressive careless driving, reduce the incidence of drivers’ interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of Florida.

**Section 3.** Amends s. 316.003, F.S., by defining the term “road rage” to mean:

The act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.

**Section 4.** Amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

The bill provides that this prohibition does not apply to a driver operating a motor vehicle in the furthestmost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthestmost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver’s movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthestmost left-hand lane; or
- The driver is preparing to make a left turn.

A driver violating these provisions and the provisions of s. 316.183, F.S., (relating to Unlawful Speed) shall receive a uniform traffic citation for the unlawful speed violation.

**Section 5.** Amends s. 316.1923, F.S., by adding “failing to yield to overtaking vehicles” to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously or in succession constituting aggressive careless driving is changed from two to three.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in ch. 318, F.S., and by the accumulation of points as

provided in s. 322.27, F.S., for each act of aggressive careless driving. In addition to any fine or points administered as specified, a person convicted of aggressive careless driving must also pay:

- Upon a first violation, a fine of \$100.
- Upon a second or subsequent conviction, a fine of not less than \$250 but not more than \$500 and be subject to a mandatory hearing under s. 318.19, F.S.

In the first year after the act takes effect, \$200,000, and in the second and third years, \$50,000 each, are to be remitted to the DHSMV for the cost of providing educational materials related to the act.

Any additional moneys received from the increased fine are to be remitted to the Department of Revenue and deposited into the DOH Administrative Trust Fund to provide financial support to verified trauma centers to ensure the availability and accessibility of trauma services throughout the state and to emergency medical services to improve and expand prehospital emergency medical services. Funds deposited into the Administrative Trust Fund are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services;
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the DOH Trauma Registry;
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the department for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.; and
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand pre-hospital emergency medical services in Florida. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

**Section 6.** Amends s. 318.19, F.S., to include a second or subsequent infraction of aggressive careless driving in the list of infractions for which a court appearance is mandatory.

**Section 7.** Requires the DHSMV to provide information about the Highway Safety Act in all newly printed driver's license educational materials after October 1, 2010.

**Section 8.** Reenacts s. 316.650, F.S., for the purpose of incorporating the amendments made by this act.

**Section 9.** Establishes an effective date of July 1, 2010.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Persons convicted of aggressive careless driving are to pay \$100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than \$250 and no more than \$500 in addition to any other fines associated with each individual violation.

**C. Government Sector Impact:**

According to the DHSMV, 30 hours of programming would be required to include “aggressive careless driving” as a moving violation for the purpose of assessing points specified in s. 322.27, F.S. This would be absorbed in the DHSMV’s normal course of work without the need for additional appropriation.

The bill provides that \$200,000 will be remitted to the DHSMV in the first year and \$50,000 for the two subsequent years to fund the cost of developing educational materials related to this bill. Additional fine revenue collected will be distributed to the DOH Administrative Trust Fund for use by certain trauma centers, of which the amount is indeterminate.

**VI. Technical Deficiencies:**

In section 5 of the bill, paragraph (c) of subsection (4) requires 25 percent of funds deposited into the DOH Administrative Trust Fund to be transferred to the Emergency Medical Services Trust Fund and used by the *department* for making matching grants to emergency medical services organizations as defined in s. 401.107, F.S. As defined in ch. 316, F.S., “department” refers to the DHSMV; however, in the referenced statute section (401.107), “department” refers to the DOH. A technical amendment may be needed to specify the correct department.

**VII. Related Issues:**

Section 5 of the bill provides that certain moneys collected from fines are to be remitted to the DHSMV; however, no specific fund is designated. The Department of Revenue recommended an

amendment specifying that certain amounts of money would be transferred to the DHSMV General Revenue Fund.

The DHSMV recommends changing the effective date from July 1, 2010 to October 1, 2010, in order to implement programmatic updates.

## **VIII. Additional Information:**

### **A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

### **B. Amendments:**

#### **Barcode 930842 by Transportation on March 18, 2010:**

This amendment creates a new section of the bill, amending s. 322.05(3), F.S., to prohibit the licensing of any driver between the age of 16 and 18 years old unless the applicant provides proof of successfully completing a basic driver improvement course approved by the DHSMV within 3 months before the date the person applied for licensure.

However, the amendment provides an exception for a person who has been licensed in any other jurisdiction, or has completed a Department of Education driver's education course.

The amendment also amends s. 318.1451, F.S., to mandate a \$2.50 assessment fee from each person attending a basic driver improvement course, to be collected by the school and remitted to the DHSMV and deposited into the Highway Safety Operating Trust Fund to fund the signage and educational requirements related to this act.

#### **Barcode 101168 by Transportation on March 18, 2010:**

This technical amendment was proposed by the Department of Revenue to correct a technical deficiency in the bill. It provides for consistent administration of the moneys collected, and specifies that certain funds deposited into the DOH Administrative Trust Fund will be transferred to the DHSMV General Revenue Fund.